DOCUMENT RESUME

ED 423 063 PS 026 901

AUTHOR Schuerman, John R.
TITLE Best Interests and Family Preservation in America. Discussion Paper.
INSTITUTION Chicago Univ., IL. Chapin Hall Center for Children.
ISSN ISSN-1097-3125
PUB DATE 1997-10-00
NOTE 20p.; Paper originally presented at the "In the Best Interest of the Child" conference (Jerusalem, Israel, 1996).
AVAILABLE FROM Chapin Hall Center for Children at the University of Chicago, 1313 East 60th Street, Chicago, IL 60637; phone: 773-753-5900; fax: 773-753-5940.
PUB TYPE Reports - Descriptive (141) -- Speeches/Meeting Papers (150)
EDRS PRICE EDRS Price MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Child Abuse; Child Neglect; *Child Welfare; *Family Life; Family Problems; *Family Programs; Family Relationship; Family (Sociological Unit); Public Policy; Welfare Services
IDENTIFIERS *Best Interests Standards for Child Custody; *Family Preservation Services

ABSTRACT

There has been widespread acceptance of the principles of family preservation as congruent with the best interests of children in situations of abuse and neglect. This paper discusses the "best interest" ideas articulated by Joseph Goldstein, Anna Freud, and Albert Solnit in the books "Before the Best Interests of the Child" and "Beyond the Best Interests of the Child." The paper compares those ideas with the principles underlying child welfare decision-making. These principles are: reasonable efforts, permanency planning, and the least restrictive alternative. The paper addresses some of the problems in the implementation of these principles, particularly as manifested in the family preservation ideal. The backlash against family preservation is considered, and some considerations for the reform of the child welfare system are suggested. (JPB)

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BEST INTERESTS AND FAMILY PRESERVATION IN AMERICA

The Chapin Hall Center for Children at the University of Chicago

John R. Schuerman

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DISCUSSION PAPER

October 1997

Abstract

There has been widespread acceptance in the United States of the principles of family preservation as congruent with the best interests of children in situations of abuse and neglect. Acceptance of those principles is now breaking down. This paper discusses the "best interest" ideas articulated by Joseph Goldstein, Anna Freud, and Albert Solnit in *Before the Best Interests of the Child* and *Beyond the Best Interests of the Child*, comparing those ideas with the principles underlying child welfare decision making in the United States. These principles are: reasonable efforts, permanency planning, and the least restrictive alternative. The author addresses some of what goes wrong in the implementation of the U.S. principles, particularly as manifested in the family preservation ideal.

The paper was originally presented at the conference "In the Best Interest of the Child" in 1996 at the Sigmund Freud Center for Psychoanalysis of the Hebrew University of Jerusalem, and will be included in the conference proceedings, to be published by Jason Aronson Publishers.

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Discussion Paper CS–44

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Phone: 773/753-5900 Fax: 773/753-5940

ISSN: 1097–3125

Best Interests and Family Preservation in America

John R. Schuerman

In this paper, I consider various ways that the "best interests of the child" has been construed, the principles that have been developed to interpret this idea, and some of the things that have gone wrong in attempting to implement these principles in the United States. I do this in the context of societal response to child abuse and neglect, the primary preoccupation of child welfare systems in the United States.

Since the waning of the idea that children are the chattel of fathers in the last century, the "best interests of the child" has been held as the guiding principle of state provision for children. But the meaning of "best interests of the child" and how those interests should be achieved have been thought of in various ways over the years. At times, these differences have led to vigorous debate. A few years ago, it appeared that those debates might have subsided in the United States, with widespread acceptance of the idea of "family preservation." That consensus now appears to be breaking down, replaced by what is, in some quarters, bitter contention.

The Goldstein-Freud-Solnit Principles

I begin with what I consider to be the central principles of Goldstein, Freud, and Solnit (referred to below as "GFS"). I restrict myself to the first two of the books, *Before the Best Interests of the Child* (Goldstein, Freud, and Solnit 1979b), concerned with the conditions under which state intervention in family life is justified, and *Beyond the Best Interests of the Child* (Goldstein, Freud, and Solnit 1973, 1979a), concerning how the state should decide what to do when it does intervene. (The books were originally published in the reverse order.) The third book, *In the Best Interests of the Child* (Goldstein, Freud, Solnit, and Goldstein 1986), is less relevant to my discussion, although it contains important principles for the behavior of professionals involved in child welfare. The books have now been reissued in a revised, single-volume edition (Goldstein, Solnit, Goldstein, and Freud 1996).

Nonintrusiveness of the state is taken as a core principle by GFS. The state should intervene in family life only in the most serious circumstances. Among the grounds for intervention are:

- Death or disappearance of the caretaker with failure to make provision for the child's care
- Serious bodily injury and attempts to inflict or failure to prevent serious bodily injury

According to GFS, emotional harm should not be a ground for intervention, in part because of the difficulty of definition and diagnosis. In the 1979 edition of *Before*, conviction of a sexual offense against the child was proposed as a ground

for state intervention, but that proposal is absent in the 1996 revision. Sexual abuse resulting in serious bodily injury would serve as a reason to intervene, but the authors argue that, although children are hurt by parents' sexual exploitation, "we do not know enough to be sure that state intervention can provide something less detrimental" (p. 122). There are also difficulties in definition of sexual abuse and there is lack of consensus about treatment.

In child welfare practice in the United States, nonintrusiveness is taken as a central principle, but it is a stretched principle. The reporting of suspected child abuse is broadly encouraged and is made easy through telephone hotlines. Reporting by specified professionals of suspected maltreatment is mandated by all states and some states require all citizens to report their suspicions. Credible reports must be investigated by child protection specialists. Currently, as a result of extensive reporting, about two-thirds of all investigations result in findings of "not indicated," that is, there is not sufficient evidence of child maltreatment to warrant state intervention. But, for many families in that two-thirds, much damage has already been done. An intrusive investigation has been conducted, suspicions have been cast on their child-rearing practices, neighbors and relatives may have been interviewed, and distortions of the parent-child relationship, which GFS so eloquently warn against, may have occurred. Whether this is an acceptable price to pay for detecting the maltreatment that is uncovered in the remaining one-third of cases is a matter for debate (see Goldstein, Solnit, Goldstein, and Freud 1996, p. 274).

The importance placed on continuity of relationships leads to the proposition that, when placements are made, they should be final and unconditional.

The grounds for intervention in most states are considerably broader than those proposed by GFS. State definitions of sexual abuse are very broad, and intentional bodily injury of almost any kind (not just "serious" harm) can be grounds for a finding of maltreatment. Neglect, which is not considered in detail by GFS (the authors express concern about vagueness in the definition of neglect in their 1996 revision), is grounds for a finding of maltreatment in 60 percent or more cases and is the reason for out-of-home placement in a similar number of cases. On the other hand, some children who are seriously abused are left at home while efforts are made to correct family problems. In the 1979 edition, GFS seemed to consider serious abuse to be an almost automatic grounds for removal. In the 1996 revision, the possibility of "supportive assistance" to the family is acknowledged as appropriate in some such cases as the least intrusive, and therefore least detrimental, disposition (p. 122). Repeated serious injury appears to continue in the 1996 edition to be a nearly automatic ground for removal.

In the 1979 edition of *Before*, GFS do not consider in detail the conditions for state involvement other than removal. In the 1996 revision, the authors more often allude to supportive services and to family preservation efforts as alternatives to placement, but the conditions under which such services might be imposed on families are not considered, nor do the authors specify the circumstances under which they should be provided instead of removing the child (an issue to which I return below).

In the United States, many cases are "opened" by state child welfare agencies without placing a child in substitute care. In fact, the majority of open cases in most state child welfare agencies do not involve the placement of a child. The families in such cases are provided various services, sometimes under court order, but always with some element of state coercion. The services often entail state intrusion into parent-child relationships. Of course, the purpose of such services is benign, but questions are often raised as to the likelihood of accomplishing benign objectives in the context of authoritarian intervention.

How do we decide with whom a child should live? For GFS, drawing on psychoanalytic theory, a central principle is the importance of the continuity of relationships. GFS suggest that the advantages of continuing an ongoing, imperfect relationship should be weighed, even in the case of significant neglect. Linked with this is

the notion of the "psychological parent." Children can be attached to parents with defective personalities and that attachment ought to be interrupted only for very good reasons.

The importance placed on continuity of relationships leads to the proposition that, when placements are made, they should be final and unconditional. We should not have adoption waiting periods and the appeal period in cases of terminations of parental rights should be short. Child custody in divorce cases should be final (and not joint) and visitation should not be a matter of court jurisdiction, but should be left to the custodial parent to determine. Foster care is inherently problematic because it is intended to be short term, but long-term foster care arrangements should not be interrupted when the foster parent has become the psychological parent of the child. "Common law" adoptive arrangements should be respected. When return to natural parents is being considered, we should not have "trial" reunifications.

These principles are bolstered by another central idea in GFS: the child's sense of time. The fact that a child's sense of time is different from that of an adult leads to the commandment that placement decisions should occur with all deliberate speed, particularly for younger children.

These ideas and their associated principles lead GFS to promulgate the principle of "least detrimental alternative for safeguarding the child's growth and development" as the basis for child placement decisions. They suggest that this principle replaces the best interests of the child, but I take it as a new interpretation of best interests. GFS want to make the point that, by the time these decisions are being made, the child's best interests have already been compromised and there is usually no ideal solution.

Child Welfare Principles in the United States

The current official approach to child welfare in the United States is governed by three principles: reasonable efforts, permanency planning, and least restrictive alternative. The requirement that states must exert reasonable efforts to prevent the placement of children and to reunify children who have been removed from their parents was codified in federal law in 1980. This requirement stems from the idea that the original parent-child bond is unique and should be maintained or restored in most, perhaps nearly all, situations. Remaining with or returning to birth parents is taken to be in the best interests of most children. Even when a child has been in foster care placement for many years, it is thought to be desirable to make efforts to return the child to his or her natural parents. This conflicts with GFS's notion of "psychological parent" and the importance they place on continuity of relationships.

On the surface, the principle of permanency planning appears to conform with GFS's insistence on the importance of continuity of relationships. In part, permanency planning grows out of concern with the lengthy time that children spend in foster care and with the phenomenon of "foster care bounce"—the frequent moving of children from one foster care placement to another. As my colleagues and I have noted on another occasion, it is curious that the principle is put in terms of "permanency planning," rather than simply "permanency," thereby seeming to put the emphasis on developing plans instead of actual results (Schuerman, Rzepnicki, and Littell 1994, p. 7).

While permanency planning seems to be aimed at the continuity of relationships, its actual implementation is somewhat at variance with GFS's principle. Permanency planning is implemented by invoking a (sometimes implicit) hierarchy of placement options. From most to least desirable, these are: placement with natural parents, adoption, placement with relatives, foster care placement with nonrelatives, and various forms of group and institutional care. (There is sometimes argument about the ordering of these alternatives and sometimes other alternatives, such as independent living, are included, but the notion of a hierarchy seems well established.) For the vast majority of cases, the case goal is for the child to remain with or return to his or her birth parents, depending on the child's current residence. Even in cases in which the child has been in foster care placement for several years, the case goal is often "return home." Obviously, these

practices conflict with the ideas put forth by GFS.

The principle of least restrictive alternative resonates with much that is found in GFS. Going beyond the context of responses to child maltreatment, it governs other state interventions, including treatment of adult and childhood mental illness. It arises out of strong American traditions of limiting state interference in private lives. Least restrictive alternative is less controversial than the other principles and is also something of a secondary principle, often not cited. It can be thought of as supporting the hierarchy cited above.

In practice, there are often conflicts among these principles. As implemented, the principle of reasonable efforts often delays the realization of permanency. In cases of severe maltreatment, families with relatively little chance of retaining or regaining their children must nonetheless be given a chance and efforts made to help them correct their problems. As mentioned above, this must occur even when children have been in foster care for some years. The idea of least restrictive alternative also contributes to delay of permanency in cases in which it is necessary to go through a series of increasingly restrictive placements before the child is appropriately served. Sometimes this process results in a child being eventually placed in a more restrictive setting than would have otherwise been necessary.[1]

What Goes Wrong in the Implementation of These Principles?

Beyond conflicts among the principles, what goes wrong when we attempt to put these principles into practice? I begin with the problem of time. Central to both GFS's argument and the principles governing practice in the United States is the importance of the timeliness of actions. But both legal forces and elements of social work practice act to delay decisions. A cornerstone of American jurisprudence is due process of law. Assuring due process appears to take time, lots of it. Parents must be afforded several hearings before findings of maltreatment are decided or termination of parental rights occurs, hearings that are often scheduled and then postponed (many meetings with the judge are "continued"). This emphasis on due process accords with our need to assure equity and fairness.

There are also strong forces in social work practice that lead to delay. The profession is built on confidence in the possibility of change of behavior, of the perfectibility of the human spirit. In many interviews we have held with child welfare workers about how they go about their work with families, perhaps the most pervasive notion they expressed was the need to "give 'em a chance." This sentiment, conforming to the reasonable efforts principle, extends even to cases of long-term foster care placement. In our evaluation of the reunification program in Illinois, workers complained about the fact that we measured success in terms of whether the child was reunified with his or her birth parents in the time allotted for the program. They wanted us to continue to follow cases we called unsuccessful to see whether the child was reunified a few months or even a year or two later. When we asked why termination of parental rights was sought on so few seemingly unsuccessful cases, they replied that the families should not be written off, they should continue to be given a chance.

The eminently sensible notion that decisions about children should be reached in a timely manner, that the child's sense of time should be a governing factor in child welfare practice, appears to me to be losing the battle against these legal and practice forces. The tension between the child's sense of time and the need to give parents a chance is particularly deep. Parents should be given a chance to correct their problems but the correction of some problems, most prominently substance abuse, takes time. Must all parents who

[1] Advocates for these principles insist that these conflicts are not inherent, arguing that "reasonable efforts" does not mean that everything possible should be done, only what is reasonable. In very serious cases, the argument runs, it is appropriate to immediately come to the conclusion that the child must be permanently removed. In my observation of practice, however, it appears that the emphasis is on "efforts" more than on "reasonable."

have problems requiring long-term treatment give up all hope of regaining custody of their children? We are unlikely to firmly answer that question in the affirmative, even in situations in which the treatment success rate is low, as in the case of substance abuse services. As a result, it seems to me, that a pure form of best interests of the child is unlikely to be implemented.

Among the other problems encountered in implementing these principles is the ever-powerful ability of the bureaucracy to frustrate the intentions of policy makers. Bureaucracies can always find a way to continue business as usual following a policy change, sometimes complying formally but not in spirit. Checking on compliance often is done through examining paperwork. If there is anything bureaucrats can do, it is paperwork, although they complain mightily about it. For example, judges must certify that, in each case in which a child is removed from his or her home, "reasonable efforts" have been made to prevent removal. The forms ordering removal have a reasonable efforts certification printed on them. Theoretically, the reasonable efforts certification should be individualized to the case, but that is rarely done.

Beyond these problems, there are the conditions under which all child welfare personnel work. Child welfare social workers labor under the burden of caseloads that are too large, impossible demands on their time, inadequate training and supervision, and inadequate resources of many kinds. In recent years, there has been an explosion in the number of allegations reported to child protective services. Judges and lawyers are required to process too many cases in too little time and have little opportunity for considered deliberation of decisions with profound consequences. In such circumstances, it is little wonder that carefully crafted principles often go by the boards.

Perhaps the most frustrating outcome of child welfare cases occurs when children are finally removed, permanently, from their birth parents and placed in adoption or another permanent situation. All too often, this is not the end of the matter: the forfeiting parents produce another child and the process begins anew. Our reluctance to suspend civil liberties and prescribe sterilization and our need to consider each child's situation separately seem to make this circumstance unavoidable.

Family Preservation: Movement and Programs

The major manifestation of the principles of reasonable efforts, permanency planning, and least restrictive alternative has been the development of "family preservation" programs. These are short-term, intensive services, delivered mainly in the family's home, intended to prevent the placement of a maltreated child in substitute care. The programs are usually conducted by private agencies under contract from the state. Similar short-term programs have been developed to effect the reunification of placed children with their original families.

Precursors to these services can be found in the home visiting of the early history of the profession of social work and in such efforts as the St. Paul Project of the 1950s (Birt 1956; Frankel 1988; Horejsi 1981; Wood and Geismar 1989). The preeminent model for family preservation services, the Homebuilders approach, was first developed in the early 1970s as a service for families with troubled and mentally ill adolescents (Kinney, Haapala, and Booth 1991). The Homebuilders approach pushes short-term work and intensiveness nearly to the limit. Services are to be provided for not more than four to six weeks. Workers are to have no more than two cases at a time. The social worker is supposed to be available twenty-four hours a day, seven days a week. This approach emphasizes crisis intervention and socioeducational approaches. Workers are to spend many hours each week with families, providing concrete services (such as help with finances, fixing up the house, and referral to needed services), education on such things as proper child-rearing practices, and counseling, primarily of a cognitive-behavioral sort. The programs are built on optimism and hope: that most parents want to be good parents and are doing the best they can. The focus is on the strengths of families and on "empowering" them.

Family preservation was presented as a prevention program, the prevention of foster care placement. But it is not really prevention in the usual sense of that term, the prevention of a problem in functioning

that has not yet occurred. Rather, the programs are directed at removing or remediating the problems that led to the consideration of placement. Besides implementing the principles listed above, the programs promised great cost savings due to avoided foster care. Thus, family preservation was embraced by persons across the political spectrum—by liberals because it upheld the ideals of family and by conservatives who envisioned lower outlays by the state.

In the late 1980s and early 1990s, advocacy for family preservation, led by two national foundations, was vigorous and effective. The advocates capitalized on sharp increases in the number of children in foster care in the late 1980s, and argued that many of these placements were unnecessary or could be prevented with services. Advocates claimed that financing mechanisms help create a bias toward placement. The federal government pays substantial proportions of foster care costs in an open-ended entitlement, but contributes much less toward the costs of services to intact families.[2] Some advocates made very extensive claims for the effectiveness of family preservation services, asserting that they could prevent most out-of-home placements, claims that were later shown to be too ambitious. Now, nearly every state has some kind of family preservation program, although some are limited in scope and coverage.

Hence, there appears to be a targeting problem in the provision of family preservation programs. The services are not being provided to those for whom they are intended, families who face the removal of a child.

Early evaluations of family preservation programs were quite positive. They indicated that in most cases served by these programs, 85 percent or more, children were not removed from their homes. This suggested a success rate for the programs of upwards of 85 percent, an unheard of record for social programs. But the methods of these evaluations were quite questionable. They either did not include comparison groups or comparison groups were inadequate. Later evaluations that included randomized control groups showed dramatically different results. The low placement rate among families receiving family preservation services held up, but similarly low placement rates were found in the control group families who did not receive the services.[3] (For a review of family preservation evaluations, see Schuerman, Rzepnicki, and Littell 1994.) Since the control group shows what the experience would be in the absence of services, the results indicate that few of the families referred to these programs would have experienced placement in the absence of the program. Hence, there appears to be a targeting problem in the provision of family preservation programs. The services are not being provided to those for whom they are intended, families who face the removal of a child.

Targeting problems have been encountered in the delivery of other social programs, including programs to divert juvenile offenders from the justice system (Spergel and Hartnett 1990) and programs to place persons in nursing homes (Weissart 1988, 1991). Because family preservation programs are intended to target families in which there is an "imminent risk of placement" of a child, a number of observers have suggested that the targeting problem indicates the difficulty of defining "imminent risk of placement" or of knowing when it exists. Our evidence is that the problem goes considerably beyond that. We have conducted a number of interviews with referring workers in Illinois and other states. These workers frequently tell us that they know that the families they refer to family preservation services are not those in which placement would shortly occur. Cases in which they remove children involve such serious threats to children's safety that one cannot risk leaving children

[2] It is likely that financing biases cannot fully explain the sharp rise in placements. Another factor was the cocaine abuse epidemic of the time.

[3] Control group families usually receive "regular" services, services generally available to child welfare clients, but not including family preservation services.

the home, even if intensive services were to be provided. Yet there are few services generally available to child welfare cases, and family preservation services are useful and valued, so child welfare workers choose other cases, often those with great need but not involving imminent risk of placement, to refer. Of course, workers have no qualms about providing the bureaucratic certification of imminent risk of placement, if that is what it takes to get services to families.

There are other conditions that contribute to the targeting problem. The planning for social programs often includes tightly drawn specifications of the intended target group. As the program is implemented, these strict definitions are invariably relaxed. In a valued program, it is hard to argue against including needy clients outside the original target group boundaries. Workers often see the original specifications as the product of rigid bureaucratic thinking. But such inclusiveness invites heterogeneity in problems and in the outcomes that can be expected. The heterogeneity is a problem for research (in control of unexpected variation) but it is a problem for the program as well, since it is likely to result in overall outcomes that are less favorable.

The broadening of the target group has occurred in many family preservation programs. In many jurisdictions, cases involving conflicts between adolescents and parents (not necessarily including abuse) are accepted into family preservation programs. Such cases involve dynamics that differ from those in situations of maltreatment of younger children. Placement may or may not be an issue in such cases, but it has a different meaning and may be of shorter duration. (Family preservation is intended to avoid long-term placement, otherwise the intended financial benefits would not be realized.) The work of family preservation workers in adolescent conflict cases may be very beneficial to families, but it is unlikely to achieve the intended policy goals.

The target group for family preservation has also been broadened by allowing referral of "on-going" cases in which the child has been left at home. Workers in these cases are attempting to help the families resolve the problems that brought them to the attention of the child welfare authority. Removal of a child almost never occurs unless there has been a recent incident of abuse or neglect. However, many of these on-going referrals do not involve such an incident. Our interviews with the referring workers in these cases indicate that, once again, they do not believe the cases involve imminent placement. Rather the referrals are made because of deterioration in the family situation or simply because the worker believes the family could benefit from the services. We suspect that some referrals involve other motivations as well: to be rid of a troublesome family or to reduce one's caseload. In any event it is likely that the inclusion of on-going cases has exacerbated the targeting problem.

Targeting problems may also include net-widening effects, a phenomenon also seen in other social programs, such as diversion programs for delinquents (Binder and Geis 1984; Blomberg 1977, 1983; Polk 1984). In our experimental evaluation of the family preservation program in Illinois, we found that about 20 percent of the control cases were not opened following referral and random assignment to the control group. Nearly all of the cases assigned to family preservation were opened. This suggests that a substantial number of cases were opened simply because the program was available. While these families may have received valuable help, they nonetheless may also have undergone state intervention into their lives they would not have otherwise experienced.

Family preservation programs face other problems as well. Two groups of cases are particularly prominent in current child welfare caseloads: families with substance abuse and cases of chronic neglect. Often these problems are seen together, the substance abuse presumably causing the neglect. Initially, many jurisdictions excluded substance abuse cases from family preservation programs. However, such an exclusion severely limits the impact that family preservation can have on most child welfare caseloads, since half or more of the cases are eliminated. Now, most states include substance abuse cases in their programs, sometimes with the provision that the caretaker must have admitted the prob-

lem and have made a commitment to work on it.[4] But substance abuse cases are very difficult and successful treatment usually requires an extended period of time, far beyond the short time limits of family preservation programs.

Family preservation theorists say that the programs are not intended to solve all of the problems of a family. They are designed to deal with the immediate crisis, the crisis that led to the threat of child removal. By the end of program services, families should have been "hooked up" with needed on-going services. But one of the complaints that we hear most often from public agency workers who deal with family preservation services is that they are too short, they cannot begin to deal with substance abuse and other chronic problems.[5] Family preservation programs are designed as crisis intervention, but the dominant feature of many cases may be chronicity rather than crisis.

Meanwhile, the purposes of family preservation programs have been implicitly and explicitly broadened in the last few years. Faced with evidence that placement prevention is often not achieved, largely because placement is not an issue in the cases served, advocates have stressed other benefits of the programs, in particular, improvements in family functioning and child well-being. Investigators of child maltreatment sometimes use family preservation programs for assessment purposes. These programs are able to spend more time and effort to understand the needs of families than are investigative workers. At times, workers even refer in order to obtain evidence that placement is needed. As in many social programs, there has been an accretion of purposes.

The context of family preservation services is, as with other programs, a critical factor in their operation. The programs depend on provision of other services, such as substance abuse treatment. Such services may be required during or following family preservation services. In many locations, these other services are scarce or nonexistent. Programs that assume the availability of nonexistent services are clearly unlikely to succeed.

The Backlash Against Family Preservation

It is important to distinguish family preservation as a service and family preservation as a movement. While family preservation programs appear to me not to have been successful in achieving their stated primary goal of preventing large numbers of removals, the establishment of family preservation as an ideal of practice has been widely, although not universally, accepted. Workers tell us that they work very hard to avoid placement, whether or not family preservation services are available for a family.[6] Child placement rates have declined in some jurisdictions in the last few years. There are always many possible explanations for such trends. It is possible that family preservation as a movement has contributed while family preservation services have not.

But, in recent years, there has developed in many locales a substantial backlash against family preservation. Attacks are aimed primarily at the family preservation ideal, although sometimes programs are targeted as well. Opponents cite horror stories of children who are killed despite their families' long involvement with the child welfare system, during which many danger signals were present. It is claimed that family preservation puts families, rather than children first, and that we must reassert the principle of best interests of the child. One particularly vocal family preservation opponent in Chicago asserts that many times "these aren't families," thereby rejecting the idea of the inherent primacy of the original parent-child bond. He suggests that the act of procreation does not a

[4] The requirement of commitment to work on the problem is vague and usually left undefined, leading to confusion and variation in practice, even within a particular office.

[5] We heard this about programs with service lengths that varied from four weeks to six months.

[6] Workers tell us that they always have done this and, in fact, the ideal of avoiding placement whenever possible did predate the family preservation movement.

family make and that many of the parents he sees display no evidence of a will to properly care for their children. While the backlash has not yet caused the termination of family preservation programs or the demise of the family preservation ideal, it has caused some reassessment on the part of policy makers and may have blocked some plans for expansion of programs.

The Next Reform

I will not here attempt to prescribe the next reform of the child welfare system, but I will suggest some considerations that must be taken into account as we move forward. Among the most pressing issues at the moment is the effect of the just-begun "reform" of the public welfare system. The legislation reduces funds available for programs like family preservation. More importantly, the reform aims at substantial reduction of the welfare rolls, if necessary, by simply cutting people off after two years or less. Hence, there are likely to be more destitute families in the near future. Many observers are predicting that the result will be massive increases in child welfare caseloads. While cataclysmic predictions of the outcome of policy shifts often prove exaggerated, pressures are likely to increase on already strained child welfare systems.

The effects of the welfare reform are likely to differ among states. We sometimes talk, as I have in this paper, as if there were a single child welfare system in the United States. In fact, there are more than fifty separate systems. There are some commonalities, on which I have focused here, but there are also significant differences over such basic issues as the definition of child maltreatment, the organization and character of services, and the availability of resources. Welfare reform encourages even greater variability.

Another significant social problem affecting the child welfare system is that of drugs. Drug epidemics in the United States have usually been time limited, but the current one goes on unabated. It is particularly insidious in the inner cities. In most places in the United States drug treatment services are inadequate. Even when available, drug treatment is often not successful. And there is the problem of getting addicts to accept treatment. I know of no proposal for child welfare reform that adequately deals with the drug problem.

Any reform must deal with a number of tensions. One is that found throughout this paper: the tension between protecting children and saving families. Under any resolution there will be two errors: some children will be left at home and subsequently harmed and some families will be broken up when they could have been kept together. Reforms often focus on the reduction of one of these errors at the expense of increasing the other. But neither error can be eliminated entirely and they ought to be balanced, a difficult thing to accomplish in the highly politicized environment that surrounds child welfare. To the extent that referrals to family preservation services involve children that are at risk, the intended target group, it is almost inevitable that there will be some increase in the number of children seriously hurt or killed. Although safety of children is a central concern of these programs, mistakes will be made. We must decide whether reduction in placements justifies the (one hopes small) increase in harms to children.

While cataclysmic predictions of the outcome of policy shifts often prove exaggerated, pressures are likely to increase on already strained child welfare systems.

This tension may also be framed as that of policing versus treatment. Some observers have suggested that it is inappropriate to combine the functions of investigation and service and that we ought to relieve child welfare agencies of their investigative tasks and place those tasks in the hands of the police (Gelles 1996; Pelton 1989, 1992). Others have suggested that a substantial proportion of cases do not involve serious threats to children, but stem from families' considerable needs. We ought not subject these families to investigation, but rather should find ways to mobilize the community to help solve their problems (Stagner 1993).

Another tension arises in determining the relative emphasis to put on prevention versus treatment. In the United States, considerable effort has gone into the develop-

ment of "family support" programs. This is an ill-defined arena, but such programs provide various supportive services to caretakers (usually mothers) intended, in part, to reduce the likelihood of child maltreatment. Very few rigorous evaluations have been conducted of these programs and their efficacy remains largely unproven.[7]

Prevention programs encounter substantial problems in targeting. They are effective to the extent that they are used to serve families who would otherwise develop the problem that is to be prevented.

To target successfully, we must provide the program to cases that have three characteristics: they must have the problem the program is supposed to treat, they must be cases that will benefit from the program, and they must be cases that would not "get better" without the program.

But, at least some recipients of any prevention program would not develop the problem in any case. Sometimes screening procedures are used to select participants, but screening devices are often quite inaccurate, particularly in the social realm, resulting in many false positives, families who receive but do not need the service offered. Furthermore, prevention programs must be voluntary and there is much reason to believe that willingness to be involved in a program is inversely related to the likelihood of mistreating one's children. For these reasons, although they may deliver much valuable and needed help, I believe that prevention programs are unlikely to result in very much of a decline in the problem of child maltreatment in the near future.

On the other end of the continuum of child welfare services are reunification programs. In the United States, relatively few resources have gone into programs designed to facilitate the return home of children in foster care. My colleagues and I have suggested that some of the resources now going to family preservation might be profitably diverted to reunification. Here again, there are targeting issues. In particular, should reunification efforts target children who have been in placement for a short time or a long time? Or should the length of time in care not matter? The principles of GFS suggest focus on short-term cases, since children who have been in care a long time are more likely to have "psychological parents" other than their birth parents. Short-term cases are also more likely to be successful. Of course, it is likely that some of the children returned home through reunification programs would have returned home even without the program, but the hope is that the reunification will be quicker because of the program.

This discussion brings me to another issue that must be faced in the design of services: do we target the worst cases or the cases that are most likely to benefit? Those categories are not coterminous and, in fact, the overlap may be small. Our urge is often to deal with the worst cases; they have the greatest needs and consume the most resources. But these are also the most difficult cases and our treatment technology is limited, so they may be the least likely to benefit. Hence, it is often more advisable to target less serious cases, those in which we are more likely to be successful. "Creaming" is a pejorative characterization of social programs, but sometimes it is in everyone's best interests.

Targeting has been a major theme in this paper and I want to summarize my views on the issue. To target successfully, we must provide the program to cases that have three characteristics: they must have the problem the program is supposed to treat, they must be cases that will benefit from the program, and they must be cases that would not "get better" without the program. Child welfare programs often attempt to serve cases that do not have these characteristics. Family preservation

[7] In 1993, Congress provided nearly a billion dollars to the states for the development of family preservation and family support programs. The states have great latitude in how the funds are divided between these classes of services. Most states appear to be allocating a substantial majority of the funds to family support programs, despite their uncertain effects.

programs are often delivered to families that do not have the problem for which they were designed, that is, likelihood of child removal. As with all social services, child welfare programs often serve cases that do not benefit from the service. Notable here are difficulties mounting successful substance abuse cases programs. Finally, many programs serve clients who would succeed without services. That is probably the case with many family support program clients.

Targeting is a matter of making decisions and decision making is at the center of child welfare practice. The precepts of GFS and the principles of reasonable efforts, permanency planning, and least restrictive alternative are primarily about how to make critical decisions. But guidelines for decisions in child welfare do not provide explicit formulae for decisions in particular cases. Inevitably, there is a substantial component of individual judgment involved. The processes by which that judgment is exercised are not well understood. In an effort to explicate those processes, Peter Rossi, Stephen Budde, and I have engaged in a series of studies of the decision making of child welfare experts and frontline workers (Rossi, Schuerman, and Budde 1996). We presented a large number of vignettes describing cases at the front end of the child welfare system, cases in which it had been determined that maltreatment existed. We asked our respondents what they would do in two situations. The first question asked respondents what they would do in the absence of a family preservation program. Their choices were to remove the child from the home, provide in-home services, or close the case. In the second question, we asked the respondents what they would do if there was a family preservation program. The results confirmed the targeting problem: our respondents often said they would refer the family to family preservation programs if they were available when they had not said they would remove the child in response to the first question. This pattern was evident even in respondents who were staunch supporters of family preservation.

We also looked at the amount of agreement among our respondents. On only a few extreme cases was there perfect or nearly perfect agreement; these were cases with very serious maltreatment and cases at the opposite end of the continuum, involving relatively innocuous situations. There were a fair number of cases in which substantial majorities of respondents agreed on a course of action, but there were also a number of cases that seemed to be in the middle, in which respondents were markedly split on whether to take custody of the child. The results suggest that at least for these "middle" cases, what happens to the child is largely a matter of which caseworker draws the assignment. Thus, it appears that we have an equity problem.

However, there is a bright side to this story. There is evidence in the data that different respondents used the same information in reaching their decisions, that is, they paid attention to the same case characteristics. The reason for their different decisions appears to be largely a matter of different thresholds for various decisions. For example, some workers tend to take custody in cases in which there have been two or more previous incidents of maltreatment, while other workers place the threshold higher (few workers take custody on the first incident unless that incident is particularly egregious). We have characterized this as the "common scale, differing threshold" hypothesis. If this hypothesis is correct, the problem of disagreement is narrowed somewhat. If we are interested in achieving greater equity in decisions that are made about children and families, we might focus our efforts on bringing about greater agreement on thresholds.

Treatment Fidelity

Critics of family preservation evaluations often fault the results on the grounds that the program was not implemented as intended. Current discussion stresses the importance of assuring treatment "fidelity," that is, making sure that the services are delivered as they were conceived by their developers. I would take a different tack. Except in highly controlled circumstances, services are never delivered exactly as intended. Often procedures specified in models just won't work in real life. Service models are always adapted to local conditions. More importantly, staff implement-

ing services often do not have the ideal preparation, superior intelligence, or the abundant creativity and zeal that are assumed in many models of practice. Interventions that work only under highly controlled circumstances, in small applications, are of only limited use. I invoke here an analogy from statistical analysis. Many times, it is desirable to use statistical techniques that are "robust" for violations of their assumptions, that is, techniques that give answers that are close to correct even when the assumptions underlying them do not hold in real-world applications. Similarly, we need services that are "robust" for violations of assumptions, that work in less than ideal circumstances and even when treatment operations are not totally faithful to the model.

Conclusion

Events now in train are likely to significantly affect the child welfare system in the United States and efforts to reform it. Changes in the public assistance system will likely increase pressures on child welfare, through increased caseloads and competition for resources at the state level. The long period of retrenchment of social services is likely to continue. Increased devolution of responsibility to the states will result in greater diversity and more inequity. Things are likely to get worse, but also more complex, in ways that cannot now be anticipated. The politicians' hope that increased economic prosperity will solve all problems will not be realized.

In the face of this dismal prospect, a few things can be suggested. We need additional options for permanency for children. At present, only two options are accepted as truly legitimate: reunification and adoption. Neither of these provide certain permanency since at least a quarter of reunifications are followed by subsequent reentry into foster care and a nontrivial proportion of adoptions are disrupted. I believe that long-term foster care should be acceptable, but that suggestion will be summarily dismissed as both inimical to the best interests of children and too costly. Alternatively, we ought to explore various guardianship arrangements, such as that now being implemented in Illinois for relative foster care. In Illinois, relatives can now assume long-term guardianship without complete termination of parental rights and also continue to receive state payment for care of children.

There is also a place for family preservation services and for family support services for families that have not yet become involved in the child welfare system. Evidently, these programs cannot be expected to substantially reduce the occurrence of child maltreatment or of placement in substitute care, and they will not be the panacea originally hoped. But they do provide needed services and significant support to some families. Some of the resources of family preservation programs might well be aimed at assessment (now eschewed by family preservation purists) and at reunification.

As I have indicated above, there are significant forces mitigating against the achievement of quick permanency, notably the need for due process in the consideration of the rights of parents. Despite much legislative activity, litigation, and oration, it is unlikely that this tension will be resolved soon. Similar problems surround the targeting of child welfare programs. Targeting is not achieved by legislative or administrative declamation. Street-level workers use programs in ways that serve their own interests and those of their clients. Those interests are often not in accord with the interests of policymakers.

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Author

John R. Schuerman is a Professor in the School of Social Service Administration at the University of Chicago and a Faculty Associate at Chapin Hall. He is the editor of *Social Service Review* and has published books on research and statistical methods. At Chapin Hall, he has been involved in numerous evaluations of social programs. He was Coprincipal Investigator of the Center's experimental evaluation of the Illinois Family First Placement Prevention Initiative, the most rigorous, comprehensive, large-scale evaluation of family preservation services in the nation to date. The large scale of the program in Illinois, and variations in its content and structure in diverse locales, offered an excellent opportunity to better understand what features of family preservation programs work best and why. The study resulted in the publication of *Putting Families First: An Experiment in Family Preservation* (New York: Aldine de Gruyter, 1994) coauthored with Tina Rzepnicki and Julia Littell. Schuerman was also Coprincipal Investigator in a nonexperimental evaluation of the Illinois family reunification program. With Peter Rossi, he was Coprincipal Investigator in a study of child welfare decision making supported by the federal Administration on Children and Families.

Schuerman pioneered the use of artificial intelligence to understand decision making in the social services, and is currently developing computer programs that will assist caseworkers on critical decisions affecting the lives of children and their families. Schuerman is currently Coprincipal Investigator of the National Evaluation of Family Preservation Services, a set of randomized experiments on family preservation and family reunification programs. The National Evaluation of Family Preservation Programs is a joint effort of Westat, Inc., James Bell Associates, and the Chapin Hall Center for Children at the University of Chicago. It is being conducted under a contract from the Assistant Secretary for Planning and Evaluation of the U.S. Department of Health and Human Services. Before turning to research and teaching, Schuerman was a caseworker at Elgin (Illinois) State Hospital and at the Illinois State Psychiatric Institute, both facilities for the mentally ill.

Related Publications

The publications listed below are available from Chapin Hall, except where another publisher is indicated.

"Innovations in Child Welfare: Preventing Out-of-Home Placement of Abused and Neglected Children"
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To be published in *Innovations in Practice and Service Delivery Across the Lifespan* by Oxford University Press, David E. Biegel, Arthur Blum, editors

"What Works Best for Whom? A Closer Look at Intensive Family Preservation Services"
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To be published in *Children and Youth Services Review*

"Facing Uncertainty: Reuniting High-Risk Families"
Tina Rzepnicki, John Schuerman, Penny Johnson 1997
Published in *Child Welfare Research Review* (volume 2) by Columbia University Press, R. P. Barth, J. D. Berrick, N. Gilbert, editors

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at the University of Chicago
1313 East 60th Street
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